

**78B-1-150 Witnesses -- When criminal defense witness may be called at expense of state.**

A witness for a defendant in a criminal cause may not be subpoenaed at the expense of the state, county, or city, except upon order of the court. The order shall be made only upon affidavit of the defendant, showing:

- (1) the defendant is impecunious and unable to pay the per diems of the witness;
- (2) the evidence of the witness is material for defendant's defense as advised by counsel, if counsel is in place; and
- (3) the defendant cannot safely proceed to trial without the witness.

Renumbered and Amended by Chapter 3, 2008 General Session